

**CITY OF MORGAN HILL
JOINT SPECIAL & REGULAR CITY COUNCIL AND
REGULAR REDEVELOPMENT AGENCY MEETING
MINUTES – JULY 19, 2006**

CALL TO ORDER

Mayor/Chairman Kennedy called the special meeting to order at 6:00 p.m.

ROLL CALL ATTENDANCE

Present: Council/Agency Members Carr, Grzan, Tate and Mayor/Chairman Kennedy
Late: Council/Agency Member Sellers (arrived at 6:25 p.m.)

DECLARATION OF POSTING OF AGENDA

City Clerk/Agency Secretary Torrez certified that the special and regular meeting agenda was duly noticed and posted in accordance with Government Code 54954.2.

City Council Action

CLOSED SESSIONS:

City Attorney Kern announced the below listed closed session item.

1.

CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION

Authority: Government Code Section 54956.9(a)
Case Name: Arcadia Development Company v. City of Morgan Hill
Case Number: County of Santa Clara No. 1-04-CV-020598.
Attendees: City Manager; City Attorney; Special Counsel Ellison Folk

OPPORTUNITY FOR PUBLIC COMMENT

Mayor Kennedy opened the Closed Session item to public comment. No comments were offered.

ADJOURN TO CLOSED SESSION

Mayor Kennedy adjourned the meeting to Closed Session at 6:05 p.m.

Council Member Sellers joined the Council in closed session.

RECONVENE

Mayor/Chairman Kennedy reconvened the meeting at 7:00 p.m.

CLOSED SESSION ANNOUNCEMENT

City Attorney Kern announced that no reportable action was taken in closed session.

SILENT INVOCATION

PLEDGE OF ALLEGIANCE

PROCLAMATIONS

RECOGNITIONS

Mayor Kennedy indicated that during the past week, the City has been fortunate to have a visiting artist from the City's Sister City of San Martin de Hidalgo, Jalisco, Mexico. He indicated that Professor Eduardo Ramirez Lopes has a special type of art on display at the Community & Cultural Center. He presented Professor Lopes with a Certificate of Appreciation for sharing his exceptional art work with the citizens of Morgan Hill.

Professor Eduardo Ramirez Lopes stated that he was honored to be in Morgan Hill. He comes as a representative from his town of San Martin de Hidalgo; extending his town's cordial greetings to the City. It is his hope that with the art interchange taking place, it will help strengthen the relationships between the two cities. He stated that the doors are open for cultural exchanges for Morgan Hill and to be exhibited in San Martin de Hidalgo.

CITY COUNCIL REPORT

Mayor Pro Tempore Grzan deferred his report to the next Council meeting.

CITY COUNCIL COMMITTEE REPORTS

CITY MANAGER REPORT

City Manager Tewes reported on the Olin Perchlorate contamination case. He indicated that Olin has not been ordered, by the Regional Water Quality Control Board, to clean up the ground water pollution for that portion of the plume north of Tennant Avenue. As a result, the City and its rate payers are paying for the treatment of groundwater at the Nordstrom well to make sure the City's customers receive water that meets state and federal standards. He stated that Olin's position has been that if there is perchlorate in the City's wells, it must have been caused by someone else. Although Olin has not yet been ordered to clean up the perchlorate, they have been directed to investigate. He indicated that the results of the investigations are that Olin has found perchlorate in the City's wells as well as in the deep aquifer 1,000 feet from the Olin site. He said that Olin has proposed a clean-up level for that portion of the plume south of Tennant Avenue. Olin is proposing that their perchlorate be allowed to remain in the ground water unless it has reached concentrations of 6 parts per billion. He said that it is staff's belief that this proposal is different from state law requirements. He stated that typically, a polluter is required, by law, to clean up the groundwater basin to the level prior to pollution. If Olin is successful in convincing the Regional Board of their novel approach, the aquifer from which the City draws its municipal water supply will remain contaminated for decades. He said that although Olin has left Morgan Hill, they will have left their perchlorate behind. He indicated that the Regional Water Quality Control Board will be meeting in September, therefore, staff will return to the Council in August recommending the Council officially demand Olin be required to adhere to the State's non degradation policy and clean up the ground water basin.

CITY ATTORNEY REPORT

City Attorney Kern indicated that she did not have a City Attorney's report to present this evening.

OTHER REPORTS

PUBLIC COMMENT

Mayor Kennedy opened the floor to public comment for items not appearing on this evening's agenda. No comments were offered.

City Council Action

CONSENT CALENDAR:

Mayor Kennedy indicated that he would make a comment on Item 1, but that there was no need to pull the item from the Consent Calendar.

Action: *On a motion by Council Member Carr and seconded by Council Member Tate, the City Council unanimously (5-0) **Approved** Consent Calendar Items 1-17 as follows:*

1. **DONATION FROM HOSPIRA, INC.**

Action: 1) **Accepted** the Donation; and 2) **Appropriated** the Donated Funds in the 2006-2007 Budget.

Mayor Kennedy noted the City held a City Beautification day a while back and that Hospira was one of the major contributors, in terms of providing employees and personnel to help with the clean up. Not only did Hospira provide the personnel to assist with clean up, they decided to donate \$2,500 for future City Beautification clean up activities. He recognized and thanked Hospira for its generous gift of employees and services, as well as their financial resources to this effort.

2. **CENTENNIAL RECREATION CENTER PROJECT – JUNE CONSTRUCTION PROGRESS REPORT**

Action: **Information** only.

3. **NEW LIBRARY PROJECT – JUNE CONSTRUCTION PROGRESS REPORT**

Action: **Information** only.

4. **FOURTH AMENDMENT TO AGREEMENT WITH THE LAW FIRM OF SHUTE, MIHALY, AND WEINBERGER, LLP**

Action: **Authorized** the City Manager to Execute a Fourth Amendment to Agreement with the Law Firm of Shute, Mihalay, and Weinberger, LLP.

5. **SECOND AMENDMENT TO AGREEMENT WITH THE LAW FIRM OF JORGENSON, SIEGEL, MCCLURE & FLEGEL, LLP**

Action: **Authorized** the City Manager to Execute a Second Agreement with the Law Firm of Jorgenson, Siegel, McClure & Flegel, LLP.

6. **FIFTH AMENDMENT TO AGREEMENT WITH THE LAW FIRM OF JORGENSEN, SIEGEL, MCCLURE & FLEGEL, LLP**

Action: **Authorized** the City Manager to Execute a Fifth Amendment to Agreement with the Law Firm of Jorgenson, Siegel, McClure & Flegel, LLP.

7. **ACCEPTANCE OF SUBDIVISION IMPROVEMENTS FOR TRACT 9680, COYOTE ESTATES PHASE 10**

Action: 1) **Adopted** Resolution No. 6030, Accepting the Subdivision Improvements Included in Tract 9680, Commonly Known as Coyote Estates Phase 10; and 2) **Directed** the City Clerk to File a Notice of Completion with the County Recorder's Office.

8. **JUNE 6, 2006 SPECIAL MUNICIPAL ELECTION – CERTIFIED STATEMENT OF ELECTION RESULTS**

Action: **Adopted** Resolution No. 6031, Reciting the Facts of the Special Municipal Election of June 6, 2006.

9. **WATER METER SOLE SOURCE PURCHASE**

Action: **Approved** Purchase Order of \$399,300 for Fiscal Year 2006-2007 to Sensus Metering Systems for the Annual Supply of Water Meters, Meter Parts, and MXUs (Radio Transmitters).

10. **FINAL MAP APPROVAL VIENTO PHASE I (TRACT 9791)**

Action: 1) **Approved** the Final Map, Subdivision Improvement Agreement and Improvement plans 2) **Authorized** the City Manager to Sign the Subdivision Improvement Agreement on Behalf of the City; Subject to Review by the City Attorney; and 3) **Authorized** the Recordation of the Final Map and the Subdivision Improvement Agreement Following Recordation of the Development Improvement Agreement.

11. **SPECIAL CITY COUNCIL MEETING MINUTES OF JUNE 28, 2006**

Action: **Approved** the Minutes as Submitted.

12. **SPECIAL CITY COUNCIL MEETING MINUTES OF JUNE 29, 2006**

Action: **Approved** the Minutes as Submitted.

13. **ADOPT ORDINANCE NO. 1781, NEW SERIES**

Action: **Waived** the Reading, and **Adopted** Ordinance No. 1781, New Series, and **Declared** That Said Title, Which Appears on the Public Agenda, Shall be Determined to Have Been Read by Title and Further Reading Waived; Title as Follows: **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING A ZONING AMENDMENT TO ESTABLISH AN R-1 7,000/RESIDENTIAL PLANNED DEVELOPMENT ON A 9.97 ACRE SITE LOCATED ON THE SOUTH SIDE OF EAST MAIN AVENUE APPROXIMATELY 400 FEET EAST OF THE CALLE MAZATAN/EAST MAIN INTERSECTION. (APN 726-16-028) (ZA-05-05: EAST MAIN-MARRAD).**

14. ADOPT ORDINANCE NO. 1782, NEW SERIES

Action: Waived the Reading, and Adopted Ordinance No. 1782, New Series, and Declared That Said Title, Which Appears on the Public Agenda, Shall be Determined to Have Been Read by Title and Further Reading Waived; Title as Follows: **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING DEVELOPMENT AGREEMENT APPLICATION DA-05-04 FOR APPLICATION MP 04-19: EAST MAIN-THRUST (APN 726-16-028) (DA-05-04: E. Main-Marrad).**

15. ADOPT ORDINANCE NO. 1783, NEW SERIES

Action: Waived the Reading, and Adopted Ordinance No. 1783, New Series, and Declared That Said Title, Which Appears on the Public Agenda, Shall be Determined to Have Been Read by Title and Further Reading Waived; Title as Follows: **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL AMENDING ORDINANCE NO. 835, NEW SERIES, SECTION II A. 2, ELIMINATING THE EXCLUSION OF GROCERY SUPERMARKETS FROM THE LIST OF PERMITTED USES ALLOWED WITHIN THE PORTION OF THE MORGAN HILL BUSINESS PARK ZONED COMMERCIAL PLANNED UNIT DEVELOPMENT (PUD). (ZA-05-30: City of Morgan Hill-Cochrane Plaza).**

16. ADOPT ORDINANCE NO. 1784, NEW SERIES

Action: Waived the Reading, and Adopted Ordinance No. 1784, New Series, and Declared That Said Title, Which Appears on the Public Agenda, Shall be Determined to Have Been Read by Title and Further Reading Waived; Title as Follows: **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING AN AMENDMENT TO ORDINANCE NO. 1733, NEW SERIES, AMENDING THE DEVELOPMENT AGREEMENT FOR APPLICATION MP-02-06: EAST DUNNE-DEMPSEY (DELCO) ALLOWING FOR A THREE MONTH EXTENSION OF TIME FOR COMMENCEMENT OF CONSTRUCTION FOR 8 ALLOCATIONS RECEIVED IN THE 2003 RESIDENTIAL DEVELOPMENT CONTROL SYSTEM (RDCS) COMPETITION. (APNS 817-11-067 & 817-11-072) (DAA-04-09: E. Dunne-Delco).**

17. ADOPT ORDINANCE NO. 1785, NEW SERIES

Action: Waived the Reading, and Adopted Ordinance No. 1785, New Series, and Declared That Said Title, Which Appears on the Public Agenda, Shall be Determined to Have Been Read by Title and Further Reading Waived; Title as Follows: **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING AN AMENDMENT TO ORDINANCE NO. 1738, NEW SERIES, AMENDING THE DEVELOPMENT AGREEMENT FOR APPLICATION MP-02-22 AND MC-04-13: BARRETT-ODISHOO ALLOWING FOR A FIVE MONTH EXTENSION OF TIME FOR OBTAINING BUILDING PERMITS AND A FOUR MONTH EXTENSION TO COMMENCEMENT OF CONSTRUCTION OF 5 ALLOCATIONS RECEIVED IN THE 2003 RESIDENTIAL DEVELOPMENT CONTROL SYSTEM (RDCS) COMPETITION. (APN 817-33-003) (DAA-04-05: Barrett-Odishoo).**

Redevelopment Agency Action

CONSENT CALENDAR:

Action: *On a motion by Agency Member Carr and seconded by Agency Member Tate, the Agency Board unanimously (5-0) **Approved** Consent Calendar Item 18 as follows:*

18. AGREEMENT FOR OUTSIDE LEGAL COUNSEL, RICHARDS, WATSON & GERSHON

Action: ***Authorized** the Executive Director to Execute Consultant Agreement for Legal Services in Fiscal Year 2006-2007 with Richards, Watson & Gershon in the Amount of \$80,000; Subject to Review and Approval by Agency Counsel.*

City Council and Redevelopment Agency Action

CONSENT CALENDAR:

Action: *On a motion by Council/Agency Member Carr and seconded by Council/Agency Member Tate, the City Council/Agency Board unanimously (5-0) **Approved** Consent Calendar Item 19 as follows:*

19. JOINT SPECIAL AND REGULAR CITY COUNCIL AND REGULAR REDEVELOPMENT AGENCY MEETING MINUTES OF JUNE 28, 2006

Action: ***Approved** the Minutes as Submitted.*

City Council Action

PUBLIC HEARINGS:

20. ZONING AMENDMENT, ZA-05-09/DEVELOPMENT AGREEMENT, DA-05-08: CHURCH-ALCINI – Ordinance Nos. 1786 and 1787, New Series

Planning Manager Rowe presented the staff report on the request to approve a precise development plan, establishing a PUD district on the entire site for a mixed commercial/residential project, and the approval of a development agreement that would memorialize commitments the project proponent made through the Measure P/C process. He clarified that there are two applications: a 14-unit residential project and a vertical mixed use project consisting of an 11,200 square foot ground floor retail and 30-residential units above the commercial portion of the building. The other portion of the site consists of 44-units. By combining the two projects, it allows for better circulation, creates a larger more central open space area, and will serve as the storm detention for both projects. It is felt that this is a superior layout from the previous application. He clarified that the PUD does not cover the parcel located at the corner of Church and Biceglia at this time. He noted that 2 residential units exist on site and that the owner has no intentions of changing the use of the site at this time. He said that it could be likely the parcel may be incorporated into this project at a later date.

Mayor Kennedy opened the public hearing. No comments being offered, the public hearing was closed.

Action: *On a motion by Council Member Tate, and seconded to Council Member Carr, the City Council unanimously (5-0) **Approved** the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program.*

Action: *On a motion by Council Member Tate, and seconded to Council Member Carr, the City Council unanimously (5-0) **Waived** the Reading in Full of the Zoning Amendment Ordinance No.1786, New Series.*

Action: *On a motion by Council Member Tate, and seconded to Council Member Carr, the City Council unanimously (5-0) **Introduced** Ordinance No. 1786, New Series, by Title Only as follows: **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING A ZONING AMENDMENT TO ESTABLISH A PLANNED UNIT DEVELOPMENT ON A 3.5 ACRE SITE LOCATED ON THE NORTHEAST CORNER OF THE INTERSECTION OF MONTEREY ROAD AND BISCEGLIA AVENUE (APNs 817-01-061, 062, 063 & 064) (ZA-05-09: Church-Alcini) by the following roll call vote: AYES: Carr, Grzan, Kennedy, Sellers, Tate; NOES: None; ABSTAIN: None; ABSENT: None.***

Action: *On a motion by Council Member Tate, and seconded to Council Member Carr, the City Council unanimously (5-0) **Waived** the Reading in Full of Development Agreement Ordinance No. 1787, New Series.*

Action: *On a motion by Council Member Tate, and seconded to Council Member Sellers, the City Council unanimously (5-0) **Introduced** Ordinance No. 1787, New Series, by Title Only as follows: **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING DEVELOPMENT AGREEMENT APPLICATION DA-05-08 FOR APPLICATION MC 04-15: CHURCH - ALCINI (APN 817-01-061 & 064) (ZA-05-09: CHURCH-ALCINI) by the following roll call vote: AYES: Carr, Grzan, Kennedy, Sellers, Tate; NOES: None; ABSTAIN: None; ABSENT: None.***

PUBLIC HEARINGS:

21. ZONING AMENDMENT AND SITE REVIEW APPLICATIONS, ZAA-03-03/SR-06-03: FOOTHILL-THE INSTITUTE – Ordinance No. 1788 and Resolution No. 6032

Senior Planner Marlatt presented the staff report, indicating that on July 2004 the Council certified an environmental impact report (EIR) to allow for the continued operation of a golf course on the property as well as the demolition of the former Flying Lady Restaurant. Requested is the replacement with a mathematics conference center for the American Institute of Mathematics (AIM). He stated that in conjunction with the EIR adoption, there was a Planned Unit Development (PUD) ordinance approved that specified the size of the Mathematics Institute as being 59,000 square feet, the size of the existing structure on site today. In conjunction with the EIR certification, there was a mitigation and monitoring reporting plan. Since that time, there has been on going implementation. He informed the Council that a status report is included in the staff report.

Senior Planner Marlatt informed the Council that the request before it this evening is for the approval of a site review permit as well as a PUD amendment that would allow the structure to increase to 167,500 square feet with a 34,000 square foot underground parking garage. He stated that parking would be enlarged to allow 261 on site parking spaces. He informed the Council the applicant is trying to replicate the Alhambra, a Moorish castle found in Granada, Spain. He stated that the applicant has further defined the uses for the site. The proposed use would allow for daily presence of mathematicians with after school programs for high school and middle school students. Tutoring and research would also be conducted as well as four larger events to be held each year with approximately 100-145 attendees. Staffing would increase to accommodate the larger use.

Senior Planner Marlatt clarified that when changes occur to a project, following certification of an EIR, the California Environmental Quality Act (CEQA) requires these changes to be reviewed. He stated that there are a number of documents that can be prepared, depending on the circumstances of the situation. In this case, it was determined that an EIR addendum to the original EIR was a preferred document. He indicated that the EIR addendum was prepared by PMC Consultants, the consultants overseeing the mitigation, monitoring and reporting plan. He indicated that seven areas were examined for the larger structure. He stated that the conclusion reached was that the impacts and the mitigation measures from the previous EIR are adequate/still apply to address the proposed changes associated with this project.

Senior Planner Marlatt indicated that one area explored in greater detail addressed the visual impacts. He presented information that demonstrates the buildings are not sited on a ridgeline, or a focal point from any public viewing area. He addressed the recommendation by staff and the Planning Commission to waive the undergrounding of the utilities requirement as the area is located in a rural area of the City. On May 8, 2006, the ARB unanimously recommended approval of the site review permit. On June 27, the Planning Commission, by a vote of 4-2, recommends Council approval of the zoning amendment as well as the underground utility waiver.

Senior Planner Marlatt stated that the use was previously found to be consistent with the General Plan and the increase in the building size would not result in any additional environmental impacts. Therefore, staff recommends the Council certify the EIR addendum, introduce the ordinance amending the PUD, and adopt the resolution approving the site review application. He informed the Council that he and Tammy Seal, PMC Consultants, were available to answer any questions it may have.

Mayor Kennedy noted that it was indicated the Planning Commission voted 4-2 to recommend approval. He inquired as to the reasons/concerns the two Planning Commissioners had for not recommending approval.

Senior Planner Marlatt indicated that one of the no votes had to do with the underground utility waiver. The Commissioner felt that an in lieu fee should be paid if the City is not requiring the undergrounding of utilities. He stated that the second no vote had to do with the size of the building. The Planning Commissioner expressed concern that the size of the building was not commensurate with the increased use that was being requested by the applicant.

Mayor Pro Tempore Grzan inquired as to the cost associated with underground utilities.

Senior Planner Marlatt responded that the in lieu fee option would require the payment of approximately \$100 per linear foot. He noted that there is approximately 4,600 linear feet of frontage on Foothill Avenue. However, he was not sure as to the actual cost for undergrounding utilities.

City Manager Tewes said that staff is recommending the City take advantage of a provision that exists in the Municipal Code that allows for these kinds of waivers. He stated that typically, when the City requires the payment of in lieu fees, the City expects development to occur on both sides of the street. Therefore, the in lieu fee would pay for half the cost for undergrounding utilities. He noted this area is isolated and that it is not likely to ever be included in the city limits based upon the City's urban limit line policies. Therefore, there are no other urban uses proposed on any of the sides of this project that would help pay for the undergrounding.

Council Member Sellers stated that in reading through the staff report, there are County versus City issues. He noted the site has always been an appendage to the City. He acknowledged that City development would not occur in this area, and that the City is limited in its jurisdiction.

Senior Planner Marlatt said that discussed at the Planning Commission meeting was the fact that if you look at the General Plan, there is not a proposal to expand, widen or improve a portion of Foothill Avenue, below Tennant Avenue.

Mayor Kennedy opened the public hearing.

Scott Stotler, Stotler Design Group, indicated that he has been involved with this project from its inception approximately five years, including a trip to Spain to determine the type of architecture to choose for this facility. He said that in May 2004, when the PUD was approved, it was raised by Planning Manager Rowe that the approval for the proposed building was based on the old building; the Flying Lady Restaurant, and not the unidentified size of the proposed building as specific information was not available at that time. He said that the difference in height and square footage is the reason for the request to amend the PUD this evening. He stated that the previous PUD was approved with the intention that they would return to the Council with an amendment to the PUD to identify the square footage for the building. He presented a 3-D animation of what the proposed building would look like. He stated the building was designed after the Alhambra palace building. He stated that this facility could very likely become a world renowned facility for mathematicians. Therefore, it was felt that the architecture needed to meet this integrity. After visiting the Alhambra palace, they wanted to duplicate six elements, follow the integrity of the building; capturing the authenticity of the structure.

Brian Conrey, Director of AIM, informed the Council that AIM got started 12 years ago; an idea of John Fry and Steve Sorenson, and has been successful during this time period. He indicated that Fry's has been a generous sponsor in supporting AIM, has offered to build the facility, and provide for a bargain lease. He stated that it is AIM's mission to focus on collaborative research with the idea of making it a team sport, while getting groups of individuals to work together. It is the hope to develop young mathematicians who want to preserve math history through an incredible library to be a part of the facility. AIM is also interested in public outreach and communicating mathematics to the public; getting the public aware and interested in mathematics. He addressed the successes of AIM (e.g., solved 3 major problems; involved in international conferences; has held 54 focused workshops; grants 5-year fellowships to the best new PhD mathematicians in the country every year; published 199 papers; received 25 grants from the National Science Foundation totaling \$9.8 million, etc.) He informed the

Council that AIM started the Math Count and Math Mardi Gras programs in Morgan Hill. He indicated that AIM is currently operating from a warehouse in Palo Alto, near Fry's Electronics. He said that AIM is looking forward to moving from the math warehouse to the math castle. He felt that AIM will be a great resource for Morgan Hill and that Morgan Hill will be a great home for AIM.

Brent Bear indicated that his family has been ranching in California since 1874 and that the family has been on this cattle ranch for 45-years. The family's 158 acre land borders the Math Institute on the northeast corner. He stated that he is excited about this project as it will be a great educational and cultural asset to the community of Morgan Hill and the entire region. He felt that the Math Institute will attract some of the greatest minds of today and the future; benefiting mankind. He indicated that he and his wife support the project before the Council.

Rocke Garcia stated that he and his wife whole heartedly support this project. He felt the project comparable to what Warren Buffet, Bill Gates, and Andrew Carnegie did in their lifetime. He requested Council unanimous support of the project.

Lori Mains, coordinator of the AIMS Morgan Hill community program, addressed the Math Counts program that involved 90 students last year, and the Morgan Hill Math Mardi Gras implemented the first time this year. She indicated that the Math Mardi Gras was a rousing success held at the Community Center with over 350 individuals in attendance. It is her hope these programs will be continued for many years.

David Eisenbud, Director of the Medical Sciences Research Institute (MSRI) in Berkeley, stated that he was on the original MSRI panel that approved the formation of the first institute approximately 25-years ago. He indicated that he has visited many institutes around the world, and that in recent years, AIM has joined the ranks of a small and select group of research institutes that have had a major impact around the world. He indicated that the AIM Palo Alto center is known widely by mathematicians from around the world. It was his belief that the proposed development will attract attention from the scientific community throughout the world. He informed the Council that MSRI and AIM have already collaborated on pure science with the education of K-12 math teachers. He looks forward to future collaborations of this kind and that it is his hope that they take place in this beautiful area/facility.

Monica Vazirani, a professor of mathematics at UC Davis, indicated that AIM supports minorities, women, and junior mathematicians; individuals starting out in their careers. She said that AIM makes an effort to ensure that younger mathematicians are participating at a high level in the workshops and are introduced to senior mathematicians. She felt that being a part of an AIM math workshop can make an impact to an individual's career. She stated that participants get to meet world class mathematicians from around the world. She said that any support the Council can give toward AIM would make a tremendous impact on mathematics.

Kevin McCurley informed the Council that he used to work at the IBM research center in Almaden Valley and recently switched jobs; working at Google in their research department. He stated that he has traveled to many of the mathematics institutes around the world early in his career, and that this had a tremendous influence in his development as a mathematician; attributed to interactions with senior mathematicians. These interactions also made a big impact on him, scientifically. He noted that a few miles of Silicon Valley have become an economic power house in the United States due, in large part, to

mathematics and the contributions it makes. He felt that support from communities in this regard would be helpful as it would bring benefits to a community(ies). He requested Council approval.

Dale Shipley did not believe anyone could rationally oppose locating the institute in Morgan Hill. It was his belief this would be the finest math research institute in the world. The only issue he can see would relate to the size of the building; noting that the Alhambra building is breathtaking. He requested Council support.

Keith Devlin informed the Council that he runs a multi disciplinary research center at Stanford University and collaborates with approximately 25 major companies in the valley and the world. He stated that he has a lifelong commitment to outreach activities. When AIM was created 12 years ago, he joined the original advisory board and was the chair of this advisory board as a volunteer. He said that approval of the applications would accommodate world class mathematicians working in a facility with interactions with members of the local community. He indicated that AIM conducts considerable outreach activities and provides opportunities such that youth in the community can interact on a one on one basis with some of the world's best academics. He stated his support of AIM and requested Council support.

Bernd Sturmfels, professor of mathematics and computer science at U.C. Berkeley, stated that he has been involved with AIM by co-organizing two of their workshops and was the advisor of one of their five year fellows. Most recently, he has been interested in applications of mathematics in molecular biology and bio medical research. He felt there would be a lot of excitement about having the AIM facility in Morgan Hill and having an impact in bio medical research.

Mike Cox informed the Council that he met Brian and Lori Conrey when they spoke at a Leadership Morgan Hill barbeque last year. He then got involved in making a buzzard for their Math Counts competition, and was convinced to attend the Math Mardi Gras. He felt that a lot more of these activities are needed.

Mark Reuter, former high school instructor and current business owner in Morgan Hill, stated that after hearing the comments presented this evening, his support has further grown for this world class facility. He was pleased to read in the Morgan Hill Times and the Gilroy Dispatch that IBM had sponsored a math and science camp for young high school students. It is his hope that AIM will be able to help local teachers with their math skill deliveries to all young students.

Sally Koutsoliotas, media coordinator for AIM, addressed the comprehensive library that is to be constructed; indicating that the working collection is at approximately 12,000 books. This is approximately 10% of all available books. It is proposed to build a special/rare works collection with a goal to preserve all mathematical works for the future. She informed the Council that AIM has approximately 3,000 of the most monumental mathematical works. She addressed a reprint collection which is a printed copy of a mathematician's publication. She stated that AIM is building a unique library collection, and that it will become one of the foremost mathematical library facilities in the world; becoming a wonderful research facility for mathematicians and a true treasure.

Jennifer Holmstrom, a 12-year Morgan Hill resident, informed the Council that she has two sons and that the oldest son has been a part of the Math Counts program; an excellent experience for her son. She stated that she is looking forward to her son participating in other programs in the future. She indicated

that she attended the Math Mardi Gras and that there were a lot of kids in attendance who were excited about math. She stated her support for AIM and requested Council support of this project.

Peter Mains, a 9th grader, indicated that he has been involved in the AIM's Math Counts program the past four years. He stated that he has been able to explore new math experiences attributed to AIM. He was a part of the Math Counts teen effort with three of the teams placing in the top 1% in the nation. He stated that he enjoys sharing his passion with sixth graders and stated his support of the AIM facility in Morgan Hill.

Wei Kang indicated that he is a 12+ year Morgan Hill resident and a professor of mathematics at the U.S. Naval Post Graduate School, and a former professor at several other universities. He said that all the universities he has taught at have special programs designed to help the local education system, especially high school students. This gives the local educational system a special learning opportunity and gives them an advantage. He did not believe the youth in Morgan Hill have the same advantages and opportunities other youths have. He felt that AIM would be a great advantage to Morgan Hill as it will bring a unique valuable element to the local culture. He felt this element will help the local educational system and will benefit future generations. He requested Council approval of the proposal this evening.

Yakov Eliashberg, Chairman of the Mathematics Department at Stanford University, stated his support of AIM's proposal. He stated that over the past years, there has been an increase in the role that mathematics plays in the world and that there is renewed interest in math. He indicated that the number of mathematics majors has quadrupled at Stanford in the past 4-5 years. Despite being young, AIM has contributed significantly to mathematical development and that Stanford has benefited because of the close proximity of AIM. Having AIM nearby was an attraction for mathematic students. He indicated that AIM can host different types of conferences with focus on breakthroughs on important mathematical problems. He felt it was important to have this type of facility in order to bring mathematicians to one place and be able to work 24-hours a day as there are very few places in the world that can accommodate world class mathematicians gathering in one location.

Anne Shipley indicated that she has been a resident of Morgan Hill since 1991. She felt the future of the world relies on math. She did not believe our country is doing well in math, and that AIM would give Morgan Hill, the country and the world a gift. She requested Council unanimous support.

George Chiala, neighbor of this project, stated his family's strong support of the Math Institute, this project and its principles.

K. Soundararajan, professor of mathematics at Stanford University, stated that he will be taking the lead project manager position with AIM for the next 2-years. He stated that he recently moved to Stanford from Michigan University because of its proximity to AIM. Although AIM will not be located in Palo Alto, it would be great to have AIM in Morgan Hill. He stated that he has been associated with AIM for a long time and that he was the first recipient of the AIM 5-year fellowship.

Janet Conrey, an 8-year Morgan Hill resident, indicated that she teaches computer software at Gavilan College as well as teaching math to 7 and 8 graders at St. Mary's School in Gilroy. She indicated that AIM conducts focus workshops and brings in mathematics and scientists from all around the world to collaborate together and share ideas. She felt it is an important time for middle school students to keep interested in the understanding of math as this is the time students transition into abstract math. AIM and

MSRI will be sponsoring a workshop for math teachers in August. She indicated that middle school teachers from the Bay area can get together for a week and learn new problem solving skills they can take back to students. Further, AIM sponsors these same teachers to get together one evening a month for an entire year to collaborate and share teaching experiences in the hope of improving the education of young students. Therefore, it was her belief that AIM contributes to research, the community, students, and the education/improvement of teachers.

Ken Ribert, a mathematician at U.C. Berkeley, stated that throughout his career, he has been involved in various capacities as a member of various institutes. He stated that this is his first visit to Morgan Hill and that it is a beautiful community. He has the expectation that he would be returning frequently to interact with AIM. He attended a week long workshop at AIM in February and felt that it was a wonderful workshop. The 32 participants were able to exchange ideas and that it was his belief the subject was furthered noticeably.

Daniel Goldston, math professor at San Jose State University, stated that he has had some success in math recently when he and his co-authors proved results on primes. The success was largely attributed to AIM and other math institutes.

Ravi Vakil, professor of mathematics at Stanford University, stated his support of AIM and math institutes as they play an important role around the world, and attract the best minds.

Olga Holtz, assistant professor, mathematics department at U.C. Berkeley, concurred with many of the points expressed by her colleagues. She felt that AIM will be a great and exciting opportunity, especially for younger mathematicians.

Steve G. Krantz, Deputy Director of AIM, indicated that AIM is one of the most prominent/important institutions of higher learning in the world. It is one of four mathematics conference centers in the world and the only one located in the United States. He felt that AIM will set a standard of excellence in scholarships and will be a part of the learning life for students at all levels. He noted that mathematics has become a vital part of modern society and plays a role in gene projects, brain research, development of the internet, and in many of the diverse aspects in technological development. He stated that AIM workshops explore all parts and manifestations of modern mathematics and that scholars from around the world will come to AIM to further contribute to mathematical activities. He felt that AIM's world class mathematics library will make it a focal point and an important resource for research activities across the discipline. With this institute, Morgan Hill will be host to one of the greatest math institutes in the world and will be the home of the best math library that has ever been assembled. He indicated that AIM enjoys generous funding from John Fry, Fry's Electronics, and from the National Science Foundation. AIM has won 25 research grants totaling \$9.8 million over the course of its 12 year existence. AIM sponsors a 5 year fellowship, a post doctoral position for developing young mathematicians and holds hot topic workshops. AIM sponsors workshops for high school teachers to aid in their professional development, fund gatherings to study current applications of mathematics, and fosters collaborations and new investigations among scientists. He stated that AIM will also be a contributing member to the Morgan Hill community by sponsoring Math Counts, Mardi Gras Math Fair, Math Circles Group, public lectures, and will contribute to the cultural life of Morgan Hill.

David Farmer concurred with the comments expressed by the previous speakers.

Ralph Cohen, professor of mathematics at Stanford University, stated that he has had several tremendous collaborations with AIM. He indicated that a couple of months ago, the Stanford Mathematics Department, in collaboration with AIM, was awarded a large grant from the National Science Foundation for a three year focused research program. This will be a collaboration in the funding of basic science between a university, government and a privately funded research institute. He informed the Council that the word is out in the mathematics community about the wonderful countryside facility that will be a part of AIM in Morgan Hill, and that it is eagerly being anticipated.

Dan-Virgil Voiculescu, member of the U.C. Berkeley math department, stated his support of AIM as it is a first rate scientific institution and is a great facility in the development of new mathematics emerging at the beginning of the new millennium. He stated that the mathematics community hopes that AIM will be approved by the Council.

Peter Teichner, professor at U.C. Berkeley, informed the Council that he is organizing a workshop at another institute in two weeks. However, he was advised that he could not use the main facility because they are expanding their library. Therefore, he is pleased to hear that AIM is planning for a large library at this time because math books are needed. He stated that one of the ways to compete for great mathematicians is to have an excellent library.

Ruchira Datta, software engineer at Google, indicating that she works in Google's book search. She stated that Google is interested in the preservation of old books and therefore she is excited to hear about AIM's library in Morgan Hill. Prior to joining Google, she was a lecturer in math at U.C. Davis and received her PhD in math at U.C. Berkeley. She stated that she benefited during her graduate work from the proximity of the MSRI facility. She informed the Council that AIM sponsored a reception for bay area women in mathematics, an opportunity to interact with other women in mathematics. She indicated that last year, she spent a day collaborating with a Swedish mathematician, hosted by AIM. She requested Council approval of the facility.

Rich Gamboa, adjacent property owner, spoke in support of the project in general and the efforts of Brian Conrey. He stated that he is a father of a gifted math student. He volunteered and worked at the Math Mardi Gras. He stated that he was astonished to see how wonderful the initial annual event was and that he hopes there will be many more like this in the future. However, he has unfinished business and concerns regarding the project left over from the golf course application. He previously was before the Council during the review of the EIR discussions about the golf course. He expressed concern with the installation of a thick wall of trees that has blocked the hillside view. He stated his support of AIM in Morgan Hill, but felt homeowners have a right to the views that pre existed before development. He stated that the neighbors want to share the view, and help make the facility a gem in the community. However, it needs to be visible when you drive down Foothill Avenue.

No further comments being offered, the public hearing was closed.

Mayor Pro Tempore Grzan inquired how AIM would integrate its efforts with the community and outreach to local schools and colleges in order to provide synergy between the institute and the City.

Mr. Conrey said that the first outreach was geared toward middle school students. It is felt that this is the most important age to get a hold of students and capture their interest. He said that as the children get older, it is the intent to begin programs in the high schools. He indicated that AIM has the intention of

starting a math circle program for high school students this year with the hope that these students will impact the elementary schools with programs not yet designed. It is the goal of AIM to have a broad reaching effort in the K-12 grade levels; assisting with what the schools do to enhance mathematics. AIM would also like to be involved with the junior colleges and colleges. He indicated that a teacher's circle workshop will commence this summer. He stated that programs commenced four years ago, and are gradually broadening. He said that AIM will make contact with local schools and offer the use of the facility. AIM is also open to working with schools, but does not want to interfere with the schools.

Council Member Sellers said that when this project first came to the City's attention, it encountered some opposition. He noted the project has gone through quite a process and that it has been a difficult and enlightening process, in some ways. He stated that he was familiar with the restaurant building and what existed on site. In its time, the restaurant gave some minor recognition to the City of Morgan Hill. He was pleased to hear there would be a wholesale change in the architecture from what existed before. He felt the building's architecture will make it an amazing facility and will be a tremendous asset to the City of Morgan Hill. He indicated that he completed his graduate work in public policy. He stated that one of the emerging areas developing in public policy is collaboration. He said that it is exciting to see that the math world is starting to recognize the value of collaboration as well. He stated that it is exciting to host a facility that will foster collaboration. He noted that it has been outlined in detail how AIM is already interacting with the community. He stated that he will encourage his children and students in the schools to participate with AIM. He said that staff and the Planning Commission have reviewed this project in great detail. The Council needs to step up as individual representatives of the community and state that this is a once in a lifetime opportunity. He recommended the City partner and do what it can to let the immediate community and the greater world know that a world class/renowned mathematical institute is coming to the community. He stated that he will be voting in support of the project and encouraged his colleagues to do the same.

Council Member Tate stated that he is a graduate from U.C. Berkeley with a degree in mathematics, and that he has been excited about this opportunity for a long time. He said that the input provided this evening was great as speakers described what kind of place Morgan Hill can be and deserves to be by hosting this type of institution. He stated his support of this project as it would be a great addition to the community.

Council Member Carr noted that anyone hearing the testimony this evening would be hard pressed not to support AIM, their goals, and/or bring the institute to Morgan Hill. However, this is not the question before the Council. The question before the Council this evening is about a building and land use; not about the programming within the building. The discussion this evening is about an addendum to an already certified EIR and amending the PUD that overlays the site. He noted that there was a comment expressed this evening pertaining to the addendum to the EIR regarding the trees and the blockage of the view shed of the hillsides from the trees. He inquired how this concern was addressed in the original EIR and how it may affect the addendum itself.

Tammy Seal, PMC Consultants, stated that the trees were not evaluated in the addendum because it is not a part of the proposed change to the project.

Director of Community Development Molloy Previsich informed the Council that the prior EIR did not address the trees as an impact. However, at the time the City approved the PUD zoning for the golf course that would accommodate this facility, it added a condition for the approval that the row of trees

along Foothill Avenue would need to be represented on the site development and grading plan to be submitted. This is where the row of trees will be represented. She stated that the site and grading plan will need to go through the City's approval process. She clarified that the trees are associated with the golf course approval and not with this building's approval. Therefore, there is still a process ahead of the City as to whether the row of trees should remain the same, be modified, and/or be removed. She stated that this is a decision that will be made in the future at the time of the evaluation of the site and grading plan.

Mayor Pro Tempore Grzan referred to page 8 of the status report regarding the EIR relating to the golf course; noting it talks about the row of trees. This portion of the report states the project proponent must show the landscaping on a detailed landscape plan or an SDGP. The City will then determine whether the row of trees, along Foothill Avenue, are to be removed, trimmed or thinned; or whether they are appropriate and can remain. He noted the landscape detail will return to the City at some point in the future. Therefore, the row of trees is a condition the City has to address along with a number of other conditions that are a part of the golf course, and not a part of the building.

Council Member Carr indicated that the concern expressed this evening was attributed to unfinished business. He felt there is unfinished business when it comes to some of the monitoring of the mitigation program. The concern does not apply to the building before the Council this evening. He noted that one of the issues cities face across the state of California is revenue issue(s). He said that one of the ways that you can look at revenue issues are ways of collecting sales tax dollars when it comes to construction related items. He said the State Board of Equalization provides an opportunity for large building programs that have significant contracts to establish a point of sale where the actual construction site is located. Therefore, the point of sale would be in Morgan Hill and the City may be able to capture some sales tax dollars. He requested the project proponent(s) work with the City on establishing such a program in order to capture sales tax revenues that would otherwise be lost to other states.

Steve Sorensen indicated that City Manager Tewes provided him with a copy of the Uniform Local Sales & Use Tax Regulation 1806. As it is a legal document, he would need to consult with a tax attorney prior to providing a binding response. He stated that it is the intention of AIM to contribute not only to the intellectual capital of the City, but also to the economic capital. He said that AIM will do everything it can, pending a discussion with an attorney, to cooperate with the City in order to generate as much sales tax revenue for the City as possible through this project.

In response to Mayor Pro Tempore Grzan's question, Senior Planner Marlatt said that the EIR established for the initial 59,000 square foot facility still applies to the much larger facility (167,500 square foot building with a 34,000 square foot underground garage); including the standards and requirements listed.

Council Member Sellers stated that the staff report presented was exhaustive and complete. He noted the Fiscal Impact contained in the staff report suggests there will be fiscal impacts associated with the project. It is expected that individuals attending periodic conferences and workshops will patronize local businesses and visit services establishments; thereby generating additional general fund revenues. He felt it important to recognize the project will have a positive significant impact on the economy of the City. This will be seen in the sale of homes once it is found that there is a world class institute affiliated with the community and the types of businesses that may decide to locate in Morgan Hill. The City should use this facility as a tool to expand economic development and expand on what is being built.

Mayor Pro Tempore Grzan indicated that there is no quantifiable study indicating the amount of economic returns the City will receive. It has been his experience that there is a lot of conjecture on what it may be. He stated that he was not basing his decision this evening on any economic returns the AIM facility may have on the community. His approval on this project would be based upon the value of the institute to the City of Morgan Hill and the value of the institute to the community.

Council Member Sellers recommended the City encourage opportunities in letting the world know that Morgan Hill will be a host to a world class research facility.

Mayor Kennedy indicated that he previously worked in facilities engineering at IBM, had a lot to do with the IBM Almaden Research Center, and is working with several scientists as well as with IBM's construction vision on a research facility. He stated there was a lot of opposition to the IBM Research Center from the Almaden Valley neighbors about the visibility of the Research Center. Therefore, the Research Center was hidden behind berms and hills and was painted with colors that blended it with the hillside. He felt the City has an opportunity for an incredible majestic building to be visible to the community. Yet, if the trees continue as they are today, the building will not be visible. He felt the community would be missing an opportunity to be able to view the beautiful facility as well as those patronizing the center. He acknowledged that privacy is an issue, but felt that the distances involved would be adequate to create sufficient privacy. He inquired as to the plans for visibility of the facility from the surrounding community.

Mr. Stotler pointed out that the elevation of the building is at a high elevation. He said that when one drives down Foothill, there will be a small percentage where the building will not be visible. As you go further back, you will be able to see the building from the freeway. Regarding the trees, he would like to have the opportunity to work with staff at the time the landscape plans are processed at a staff level. It was his belief the building would be seen from the majority of Morgan Hill, however, it would not be as visible along Foothill Avenue.

Mayor Kennedy made a strong request that something be done with the trees to eliminate the appearance of a wall of vegetation/trees. He felt the wall of trees detracts from the overall appearance of the facility.

Mr. Stotler said that as you move further away from the site, you will see the base of the building as the elevation of the building is taller than the top of the trees.

Mayor Kennedy felt this was a wonderful opportunity for Morgan Hill. He noted that many of the speakers mentioned what a wonderful and awesome facility it will be for Morgan Hill, and that it would become one of the leading mathematic institutes in the world. He stated that he was honored that the Math Institute has chosen to build the facility in Morgan Hill and to build it in such a grand style/historical significance in the Alhambra building. He stated his support of the project.

Action: *On a motion by Council Member Sellers, and seconded to Council Member Tate, the City Council unanimously (5-0) **Adopted** the Environmental Impact Report (EIR) Addendum.*

Action: *On a motion by Council Member Sellers, and seconded to Council Member Tate, the City Council unanimously (5-0) **Waived** the First and Second Reading of Ordinance No. 1788, New Series .*

Action: *On a motion by Council Member Sellers, and seconded to Council Member Tate, the City Council unanimously (5-0) **Introduced** Ordinance No. 1788, New Series, Amending a Planned Unit Development Zoning and Precise Development Plan for the Subject Parcels by Title Only, as follows: **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING AN AMENDMENT TO A PRECISE DEVELOPMENT PLAN FOR AN EXISTING PLANNED UNIT DEVELOPMENT (PUD) ORDINANCE (ORDINANCE NO. 1687) TO ALLOW AN APPROXIMATELY 167,500 SQUARE FOOT ABOVE GROUND MATHEMATICS CONFERENCE CENTER WITH A 34,385 SQUARE FOOT UNDERGROUND GARAGE AND A NEW 185 SPACE SURFACE PARKING LOT TO REPLACE AN EXISTING 121 SPACE PARKING LOT ON AN APPROXIMATELY 54 ACRE SITE LOCATED AT 14830 FOOTHILL AVENUE. (APNS 825-30-007 AND 825-29-002) (ZAA 03-03: Foothill – The Institute) by the following roll call vote: AYES: Carr, Grzan, Kennedy, Sellers, Tate; NOES: None; ABSTAIN: None; ABSENT: None.***

Action: *On a motion by Mayor Kennedy, and seconded to Council Member Tate, the City Council unanimously (5-0) **Adopted** Resolution No. 6032, Approving a Site Review Permit and an Exception to the Underground Utility Requirement.*

22. GENERAL PLAN AMENDMENT, GPA-01-09: CITY OF MORGAN HILL-ADOPTION OF HOUSING ELEMENT UPDATE – Resolution No. 6033

Contract Planner Bischoff presented the staff report, indicating that the Housing Element is one of the mandated elements in the City's General Plan. He said that State law is specific with respect to the contents of the Housing Element than any other element of the General Plan. The Housing Element is the only element in the General Plan that the State is authorized to certify as being in compliance with state law. The State also specifies the time period for which a Housing Element should be prepared and for Morgan Hill, it is the period of 1999-2006. He informed the Council that the next update to the Housing Element will be for the period of 2009-2014 and that this update will begin in approximately two years. In order to comply with state law with respect to the 1999-2006 Housing Element, the City began an update process in 2001. The update and 9-member advisory committee was chaired by Council Member Carr. This committee completed a draft of the Housing Element in late 2001. The Council conducted 2 workshops to review the work of the Committee to date. He indicated that this Housing Element was sent to the State for review. The State provided comments to the City and requested minor changes to the policies, and changes to the substantiating data with respect to the Housing Element. He informed the Council the State liked the City's Housing Element, but could not certify it because Measure C did not allow the City to meet its fair share of housing allocation of 2,484 units assigned to the City by ABAG. He noted that in 2004, Measure C passed and that with its passage, the number of units the City could allow, on an annual basis, bumped the units to 250 units/per year; allowing the City to provide additional units. This number now enables the City to meet the fair share housing allocation assigned by ABAG.

Contract Planner Bischoff informed the Council that staff has drafted amendments to the Housing Element that addressed the comments received by the State. Staff proposes some changes to the Housing Element that were necessitated by changes in State law since the Housing Element was first drafted. Staff has sent these changes to the State for a second informal review; indicating that the State has

provided some additional comments. The comments deal with documentation/information. There were not a lot of comments provided by the State with respect to policy directions. He informed the Council that there were two documents included in the Council's packet: 1) the Housing Element, and 2) the Housing Needs Assessment. He clarified the goals and policies before the Council are for the most part, the same as those contained in the current General Plan; indicating that fundamentally, the Housing Element remains the same. He indicated that the Housing Element contains three main goals: 1) provision of new housing; 2) preservation of the existing housing stock; and 3) housing needs for special groups such as large families, single parents, disabled persons, and seniors. He said that the policies and actions italicized are new additions to the existing element. He stated that there were a few actions deleted as well as actions that have been achieved, out of date, or found not to be affective. He informed the Council that the Housing Element before it was reviewed by the Planning Commission on June 27 and July 11, and that the Planning Commission recommends Council approval. The Resolution before the Council would allow for the approval of the Housing Element and authorize staff to make additional changes, as found necessary, to the Housing Needs Assessment in order to satisfy State requirements. He clarified that the Resolution does not authorize the City to make any changes to policy(ies).

Council Member Sellers noted that reference was made regarding affordable housing. He referred to Policy 1g, page 379 of the agenda packet. The first action of this policy requires that 40% of all new housing be set aside for low, medium and moderate income households. It was his recollection the Council wanted to move toward median income households through Measure C in a variety of ways such as working with for profit and non profit developers. He inquired whether there were specific references to the percentage of housing, how it was broken out and to what degree the City would emphasize one over the other. He noted the City has been able to provide a much higher percentage of affordable housing through Measure C, the Residential Development Control System (RDCS). However, a lot of this housing has been at one end of the spectrum and does not come close to the median.

Contract Planner Bischoff indicated that there is an action included that states that at the conclusion of each RDCS competition, the Planning Commission and the Council should look at the results of the competition; including the sufficiency of the level of affordable housing; making adjustments, as necessary.

Mayor Kennedy opened the public hearing. No comments being offered, the public hearing was closed.

Council Member Tate noted that the Council has been dealing with the Housing Element for a number of years, especially in the work of Council Member Carr. He felt that this is a perfunctory approval at this time. He felt a great job was done and was ready to move forward.

Action: *On a motion by Council Member Tate, and seconded to Council Member Sellers, the City Council unanimously (5-0) Adopted the Negative Declaration.*

Action: *On a motion by Council Member Tate, and seconded to Council Member Sellers, the City Council unanimously (5-0) Adopted Resolution No. 6033.*

Council Member Carr concurred that this is the culmination of the work started years ago with the assistance of a citizen group that provided advice as well as by working with other outside agency groups. One of the steps that needed to be done was the update to the RDCS through Measure C. With

its approval, it allows the Housing Element to be completed; noting that in two years, the City will need to start on the next Housing Element update.

City Council Action

OTHER BUSINESS:

23. CITY MANAGER’S AMENDED AND RESTATED EMPLOYMENT AGREEMENT

Mayor Kennedy stated that the Council appointed a Council subcommittee consisting of himself and Council Member Tate to develop a recommendation to amend the City Manager’s contract. The proposed amended contract is in front of the Council this evening. He referred to the second paragraph of the contract and read it into the record: “After review of Mr. Tewes’ performance for 2005, the City Council has determined that it is very pleased with Mr. Tewes’ excellent performance. The Council ad hoc committee of Mayor Kennedy and Council Member Tate, therefore, recommend a merit increase and other benefits as described in the proposed restated agreement and as highlighted below.” He referred to the last paragraph; noting that there are two primary changes being recommended in the restated agreement: 1) the base annual salary increase is affective January 1, 2006 to \$159,300. He stated that this reflects a \$4,800 merit increase or a 3.1% increase. He noted that the last merit increase awarded to the City Manager was in September 2002. The agreement includes an annual CPI adjustment affective July 1, 2006, to be determined on data not yet available. 2) A provision has been included that stipulates that should Mr. Tewes still be employed on July 1, 2007, the City will reduce by \$5,000 the balance on the loan provided to him to relocate to Morgan Hill as an incentive for him to stay. This will enable Mr. Tewes to further reduce the loan balance by cashing in up to 100 hours of his accrued administrative leave. The agreement also provides for \$200 every year for personal acquisition of computer hardware/software to facilitate an out of office connection to City Hall. He stated that there are other updates to the contract as noted in the staff report. He said that Mr. Tewes’ contract has been amended several times, and that a lot of the language was outdated. With the assistance of the City Attorney, the ad hoc committee has rewritten the entire agreement; making changes to eliminate the semi annual performance reviews and the requirement for a facilitator for an annual review, and simplified the process somewhat. He thanked Mr. Tewes for all he has accomplished over the last six years as it has been amazing to see all the wonderful achievements.

Council Member Tate felt it important to point out the contract modification was based on the assessment of Mr. Tewes’ performance through the end of last year. As the Council was conducting performance assessments twice a year, the Council was in a consistent mode of conducting performance evaluations. He noted the Council is into the next assessment at this time. He reiterated that this amended contract was based on last year’s assessment, thus, the reason providing for a retro merit increase back to January 1, 2006, reflecting the conclusion of the performance period assessed. He stated that he is pleased with the outstanding performance the City Manager has given to the City; noting the City is on track with the budget strategy and has made headways.

Action: Mayor Kennedy made a motion, seconded by Council Member Tate, to: 1) **Approve** the Amended and Restated Employment Agreement Between the City of Morgan Hill and J. Edward Tewes; 2) **Authorize** the Mayor to Execute the Agreement on Behalf of the City, Subject to Review and Approval by the City Attorney; and 3) **Added** an Additional \$9,000 to the City Manager’s Office Budget.

Mayor Kennedy opened the floor to public comment.

Marby Lee requested clarification that the \$9,000 budget adjustment to the City Manager's Office Budget is for all increases and other items relating to Mr. Tewes' salary.

Mayor Kennedy clarified that the Council will need to make a budget adjustment in order to accommodate the recommendations as included in the agreement.

No further comments were offered.

Council Member Carr thanked Mayor Kennedy and Council Member Tate for their work on the amended agreement and summarizing the amendments; including the clarification of why the amended contract is retroactive. He felt the recommendation to be appropriate. He thanked City Manager Tewes for all his hard work and the day to day leadership/operation of the City. He noted the City has gone through difficult budget times, and that the City Manager's knowledge of the budget and his way of looking at it has been helpful. He appreciates all the advice and thought he has provided to him, as a Council Member, and the way he has helped the Council work together as a team. He felt that the terms of the amended agreement are more than deserving, and that he was pleased the Council was taking action this evening.

Vote: *The Motion carried unanimously (5-0).*

City Manager Tewes thanked the Council for its support. He appreciates the chance to be able to work with the Council and an outstanding organization that serves the citizens of Morgan Hill. He said that an employment agreement is important as it provides some security. However, equally important is the challenge of the job and that he is looking forward to the additional challenges the community and the Council sends to the organization. He thanked the Council for its continued support.

Council Member Sellers noted that in the 1990s, the City had no fewer than four city managers. He said that the turnover was caused by and exacerbated by the turnover in the leadership of the organization and the City. He felt that Mr. Tewes, with this agreement extension, is on the verge of becoming the longest tenured city manager in the City's history. He felt this to be a testimony to his endurance and to the Council's ability to recognize and reward outstanding performances. He stated his appreciation to Mr. Tewes, and that he looks toward many more years of working with him, whether or not he is on the Council.

FUTURE COUNCIL-INITIATED AGENDA ITEMS

No items were identified.

ADJOURNMENT

There being no further business, Mayor Kennedy adjourned the meeting at 9:30 p.m.

MINUTES RECORDED AND PREPARED BY:

IRMA TORREZ, CITY CLERK